INDEX
VOLUME 42
1989

LEADING ARTICLES—AUTHOR INDEX

ABRAMS, KATHRYN: *Gender Discrimination and the Transformation of Workplace Norms* . 1183
ACKER, JAMES R. & WALSH, ELIZABETH R.: *Challenging the Death Penalty Under State Constitutions* . 1299
BLAIR, ROGER D. & HARRISON, JEFFREY L.: *Rethinking Antitrust Injury* . 1539
CLOUD, A. MORGAN, III: *Cocaine, Demand, and Addiction: A Study of the Possible Convergence of Rational Theory and National Policy* . 725
CROSS, FRANK B.: *Natural Resource Damage Valuation* . 269
DAYS, DREW S., III: *The Courts' Response to the Reagan Civil Rights Agenda* . 1003
DIAMOND, RAYMOND T.: *No Call to Glory: Thurgood Marshall's Thesis on the Intent of a Pro-Slavery Constitution* . 93
GAETKE, EUGENE R.: *Lawyers as Officers of the Court* . 39
GREELY, HENRY T.: *Contracts as Commodities: The Influence of Secondary Purchasers on the Form of Contracts* . 133
JOHNSON, KIRK B., PHILLIPS, CARTER G., ORENTLICHER, DAVID, M.D. & HATLIE, MARTIN S.: *A Fault-Based Administrative Alternative for Resolving Medical Malpractice Claims* . 1365
KUSHNER, JAMES A.: *The Fair Housing Amendments Act of 1988: The Second Generation of Fair Housing* . 1049
LEVY, RICHARD E. & GLICKSMAN, ROBERT L.: *Judicial Activism and Restraint in the Supreme Court's Environmental Law Decisions* . 343
MCDONALD, LAUGHLIN: *The Quiet Revolution in Minority Voting Rights* . 1249
MERRITT, ANDREW L.: *Damages for Emotional Distress in Fraud Litigation: Dignitary Torts in a Commercial Society* . 1
REICHMAN, J.H.: *Computer Programs As Applied Scientific Know-How: Implications of Copyright Protection for Commercialized University Research* . 639
REYNOLDS, WILLIAM BRADFORD: *The Reagan Administration's Civil Rights Policy: The Challenge for the Future* . 993
ROSE, DAVID L.: *Twenty-Five Years Later: Where Do We Stand on Equal Employment Opportunity Law Enforcement?* . 1121
VAUSE, W. GARY: *Tibet to Tienanmen: Chinese Human Rights and United States Foreign Policy* . 1575
WOODSON, ROBERT L.: *Race and Economic Opportunity* . 1017

LEADING ARTICLES—TITLE INDEX

CHALLENGING THE DEATH PENALTY UNDER STATE CONSTITUTIONS: *James R. Acker & Elizabeth R. Walsh* . 1299
COCAINE, DEMAND, AND ADDICTION: A STUDY OF THE POSSIBLE CONVERGENCE OF RATIONAL THEORY AND NATIONAL POLICY: *A. Morgan Cloud, III* . 725
COMPUTER PROGRAMS AS APPLIED SCIENTIFIC KNOW-HOW: IMPLICATIONS OF COPYRIGHT PROTECTION FOR COMMERCIALIZED UNIVERSITY RESEARCH: *J.H. Reichman* . 639
CONTRACTS AS COMMODITIES: THE INFLUENCE OF SECONDARY PURCHASERS ON THE FORM OF CONTRACTS: *Henry T. Greely* . 133
THE COURTS' RESPONSE TO THE REAGAN CIVIL RIGHTS AGENDA: *Drew S. Days, III* . 1003
DAMAGES FOR EMOTIONAL DISTRESS IN FRAUD LITIGATION: DIGNITARY TORTS IN A COMMERCIAL SOCIETY: *Andrew L. Merritt* . 1
THE FAIR HOUSING AMENDMENTS ACT OF 1988: THE SECOND GENERATION OF FAIR HOUSING: *James A. Kushner* . 1049

A Fault-Based Administrative Alternative for Resolving Medical Malpractice Claims: *Kirk B. Johnson, Carter G. Phillips, David Orentlicher, M.D. & Martin S. Hatlie* 1365
Gender Discrimination and the Transformation of Workplace Norms: *Kathryn Abrams* 1183
Judicial Activism and Restraint in the Supreme Court's Environmental Law Decisions: *Richard E. Levy & Robert L. Glicksman* 343
Lawyers As Officers of the Court: *Eugene R. Gaetke* 39
Natural Resource Damage Valuation: *Frank B. Cross* 269
No Call to Glory: Thurgood Marshall's Thesis on the Intent of a Pro-Slavery Constitution: *Raymond T. Diamond* 93
The Quiet Revolution in Minority Voting Rights: *Laughlin McDonald* 1249
Race and Economic Opportunity: *Robert L. Woodson* 17
The Reagan Administration's Civil Rights Policy: The Challenge for the Future: *William Bradford Reynolds* 993
Rethinking Antitrust Injury: *Roger D. Blair & Jeffrey L. Harrison* 1539
Tibet to Tienanmen: Chinese Human Rights and United States Foreign Policy: *W. Gary Vause* 1575
Twenty-Five Years Later: Where Do We Stand on Equal Employment Opportunity Law Enforcement?: *David L. Rose* 1121

ESSAYS—AUTHOR INDEX

Jay, Stewart: *The Status of the Law of Nations in Early American Law* 819
Kernochan, John M.: *The Distribution Right in the United States of America: Review and Reflections* 1407
Kissam, Philip C.: *Law School Examinations* 433
Welch, D. Don: *Walking in Their Shoes: Paying Respect to Incompetent Patients* 1617

ESSAYS—TITLE INDEX

The Distribution Right in the United States of America: Review and Reflections: *John M. Kernochan* 1407
Law School Examinations: *Philip C. Kissam* 433
The Status of the Law of Nations in Early American Law: *Stewart Jay* 819
Walking in Their Shoes: Paying Respect to Incompetent Patients: *D. Don Welch* 1617

RESPONSE—AUTHOR INDEX

R. Gaull Silberman: *The EEOC Is Meeting the Challenge: Response to David Rose* 1641

RESPONSE—TITLE INDEX

The EEOC Is Meeting the Challenge: Response to David Rose: *R. Gaull Silberman* 1641

SYMPOSIUM

The State of the Union: Civil Rights 987

SPECIAL PROJECT

LENDER LIABILITY 853

NOTES—AUTHOR INDEX

BAYMAN, ANDREW T.: *Strict Liability for Defective Ideas in Publications* 557
KING, PAMELA: *The Protection of Groundwater and Public Drinking Supplies: Recent Trends in Litigation and Legislation* 1649
PARSONS, LARRY M.: *Title VII Remedies: Reinstatement and the Innocent Incumbent Employee* 1441
POWELL, TRACY A.: *Stock in a Closely Held Corporation: Is It a Security for Uniform Commercial Code Purposes?* 579
RABON, CHARLES H., JR.: *Evening the Odds in Civil Litigation: A Proposed Methodology for Using Adverse Inferences When Nonparty Witnesses Invoke the Fifth Amendment* ... 507
REDMOND, JENNIFER G.: *Redefining Race in* Saint Francis College v. Al-Khazraji *and* Shaare Tefila Congregation v. Cobb*: Using Dictionaries Instead of the Thirteenth Amendment* 209
RILEY, ANNE R.: United States v. Johnson*: Expansion of the* Feres *Doctrine to Include Servicemembers' FTCA Suits Against Civilian Government Employees* 233
STANLEY, JAMES C.: *Asbestos in Schools: The Asbestos Hazard Emergency Response Act and School Asbestos Litigation* 1685
THOMPSON, PATRICK J.: *Shareholder Rights Plans: Shields or Gavels?* 173
VRANKA, LAWRENCE ALLEN, JR.: *Defining the Contours of ERISA Preemption of State Insurance Regulation: Making Employee Benefit Plan Regulation an Exclusively Federal Concern* 607
WEBER, ANNE D.: *Misery Loves Company: Spreading the Costs of CERCLA Cleanup* 1469

NOTES—TITLE INDEX

ASBESTOS IN SCHOOLS: THE ASBESTOS HAZARD EMERGENCY RESPONSE ACT AND SCHOOL ASBESTOS LITIGATION: *James C. Stanley* 1685
DEFINING THE CONTOURS OF ERISA PREEMPTION OF STATE INSURANCE REGULATION: MAKING EMPLOYEE BENEFIT PLAN REGULATION AN EXCLUSIVELY FEDERAL CONCERN: *Lawrence Allen Vranka, Jr.* 607
EVENING THE ODDS IN CIVIL LITIGATION: A PROPOSED METHODOLOGY FOR USING ADVERSE INFERENCES WHEN NONPARTY WITNESSES INVOKE THE FIFTH AMENDMENT: *Charles H. Rabon, Jr.* 507
MISERY LOVES COMPANY: SPREADING THE COSTS OF CERCLA CLEANUP: *Anne D. Weber* 1469
THE PROTECTION OF GROUNDWATER AND PUBLIC DRINKING SUPPLIES: RECENT TRENDS IN LITIGATION AND LEGISLATION: *Pamela King* 1649
REDEFINING RACE IN *Saint Francis College v. Al-Khazraji* AND *Shaare Tefila Congregation v. Cobb*: USING DICTIONARIES INSTEAD OF THE THIRTEENTH AMENDMENT: *Jennifer G. Redmond* 209
SHAREHOLDER RIGHTS PLANS: SHIELDS OR GAVELS?: *Patrick J. Thompson* 173
STOCK IN A CLOSELY HELD CORPORATION: IS IT A SECURITY FOR UNIFORM COMMERCIAL CODE PURPOSES?: *Tracy A. Powell* 579
STRICT LIABILITY FOR DEFECTIVE IDEAS IN PUBLICATIONS: *Andrew T. Bayman* 557
TITLE VII REMEDIES: REINSTATEMENT AND THE INNOCENT INCUMBENT EMPLOYEE: *Larry M. Parsons* 1441
United States v. Johnson: EXPANSION OF THE *Feres* DOCTRINE TO INCLUDE SERVICEMEMBERS' FTCA SUITS AGAINST CIVILIAN GOVERNMENT EMPLOYEES: *Anne R. Riley* 233

RECENT DEVELOPMENTS—AUTHOR INDEX

CHINI, DEBRA A.: *The 1988 Amendment to 26 U.S.C. Section 7430: Expanding Taxpayers' Rights to Recover Costs in Tax Controversies* 1711
OWEN, ELEANOR L.: *The Confrontation Clause Applied to Minor Victims of Sexual Abuse* 1511

RECENT DEVELOPMENTS—TITLE INDEX

THE CONFRONTATION CLAUSE APPLIED TO MINOR VICTIMS OF SEXUAL ABUSE: *Eleanor L. Owen* 1511
THE 1988 AMENDMENT TO 26 U.S.C. SECTION 7430: EXPANDING TAXPAYERS' RIGHTS TO RECOVER COSTS IN TAX CONTROVERSIES: *Debra A. Chini* 1711

BOOK REVIEWS—AUTHOR INDEX

J. COSTONIS: ICONS AND ALIENS (Richard F. Babcock) 1535
HALL & ELY, EDS.: AN UNCERTAIN TRADITION: CONSTITUTIONALISM AND THE HISTORY OF THE SOUTH (Numan V. Bartley) 1739

BOOK REVIEWS—REVIEWER INDEX

BABCOCK, RICHARD F.: ICONS AND ALIENS (J. Costonis) 1535
BARTLEY, NUMAN V.: AN UNCERTAIN TRADITION: CONSTITUTIONALISM AND THE HISTORY OF THE SOUTH (Hall & Ely eds.) 1739

INDEX DIGEST

Page references followed by an asterisk (*) are to Leading Articles, Essays, Responses, and Book Reviews; those followed by a dagger (†) are to Notes; those accompanied by two daggers (††) are to Recent Developments or the Special Project.

ANTITRUST
Rethinking Antitrust Injury ... 1539*
BANKING & FINANCE LAW
Lender Liability ..... 853††
CIVIL RIGHTS
The Courts' Response to the Reagan Civil Rights Agenda . 1003*
The EEOC Is Meeting the Challenge: Response to David Rose 1641*
The Fair Housing Amendments Act of 1988: The Second Generation of Fair Housing 1049*
Gender Discrimination and the Transformation of Workplace Norms 1183*
The Quiet Revolution in Minority Voting Rights 1249*
Race and Economic Opportunity 1017*
The Reagan Administration's Civil Rights Policy: The Challenge for the Future 993*
Redefining Race in *Saint Francis College v. Al-Khazraji* and *Shaare Tefila Congregation v. Cobb*: Using Dictionaries Instead of the Thirteenth Amendment ..... 209†
Title VII Remedies: Reinstatement and the Innocent Incumbent Employee ..... 1441†

Twenty-Five Years Later: Where Do We Stand on Equal Employment Opportunity Law Enforcement? 1121*

CONSTITUTIONAL LAW

An Uncertain Tradition: Constitutionalism and the History of the South (reviewed by Numan V. Bartley) 1739*

Challenging the Death Penalty Under State Constitutions ... 1299*

The Confrontation Clause Applied to Minor Victims of Sexual Abuse ..... 1511††

Evening the Odds in Civil Litigation: A Proposed Methodology for Using Adverse Inferences When Nonparty Witnesses Invoke the Fifth Amendment ..... 507†

Judicial Activism and Restraint in the Supreme Court's Environmental Law Decisions 343*

No Call to Glory: Thurgood Marshall's Thesis on the Intent of a Pro-Slavery Constitution 93*

Redefining Race in *Saint Francis College v. Al-Khazraji* and *Shaare Tefila Congregation v. Cobb*: Using Dictionaries Instead of the Thirteenth Amendment ..... 209†

Tibet to Tienanmen: Chinese Human Rights and United States Foreign Policy 1575*

CONTRACTS

Contracts as Commodities: The Influence of Secondary Purchasers on the Form of Contracts 133*

CORPORATIONS & BUSINESS ENTITIES

Shareholder Rights Plans: Shields or Gavels? ..... 173†

Stock in a Closely Held Corporation: Is It a Security for Uniform Commercial Code Purposes? ..... 579†

CRIMINAL LAW

Challenging the Death Penalty Under State Constitutions ... 1299*

Cocaine, Demand, and Addiction: A Study of the Possible Convergence of Rational Theory and National Policy 725*

The Confrontation Clause Applied to Minor Victims of Sexual Abuse ..... 1511††

EMPLOYMENT LAW

The EEOC Is Meeting the Challenge: Response to David Rose 1641*

Title VII Remedies: Reinstatement and the Innocent Incumbent Employee ..... 1441†

Twenty-Five Years Later: Where Do We Stand on Equal Employment Opportunity Law Enforcement? 1121*

ENVIRONMENTAL LAW & NATURAL RESOURCES

Asbestos in Schools: The Asbestos Hazard Emergency Response Act and School Asbestos Litigation ..... 1685†

Judicial Activism and Restraint in the Supreme Court's Environmental Law Decisions 343*

Misery Loves Company: Spreading the Costs of CERCLA Cleanup ..... 1469†

Natural Resource Damage Valuation 269*

The Protection of Groundwater and Public Drinking Supplies: Recent Trends in Litigation and Legislation ..... 1649†

GOVERNMENT & LEGISLATION

Cocaine, Demand, and Addiction: A Study of the Possible Convergence of Rational Theory and National Policy 725*

The Status of the Law of Nations in Early American Law 819*

Tibet to Tienanmen: Chinese Human Rights and United States Foreign Policy 1575*

HISTORY

No Call to Glory: Thurgood Marshall's Thesis on the Intent of a Pro-Slavery Constitution 93*

The Status of the Law of Nations in Early American Law 819*

An Uncertain Tradition: Constitutionalism and the History of the South (reviewed by Numan V. Bartley) 1739*

INSURANCE LAW
Defining the Contours of ERISA Preemption of State Insurance Regulation: Making Employee Benefit Plan Regulation an Exclusively Federal Concern ..... 607†

INTELLECTUAL PROPERTY
Computer Programs As Applied Scientific Know-How: Implications of Copyright Protection for Commercialized University Research 639*
The Distribution Right in the United States of America: Review and Reflections 1407*

LAND USE
Icons and Aliens (reviewed by Richard F. Babcock) 1535*

LEGAL EDUCATION
Law School Examinations 433*

LITIGATION
The Confrontation Clause Applied to Minor Victims of Sexual Abuse ..... 1511††
Evening the Odds in Civil Litigation: A Proposed Methodology for Using Adverse Inferences When Nonparty Witnesses Invoke the Fifth Amendment ..... 507†
The 1988 Amendment to 26 U.S.C. Section 7430: Expanding Taxpayers' Rights to Recover Costs in Tax Controversies ..... 1711††

MEDICAL JURISPRUDENCE
A Fault-Based Administrative Alternative for Resolving Medical Malpractice Claims . 1365*
Walking in Their Shoes: Paying Respect to Incompetent Patients 1617*

PROFESSIONAL RESPONSIBILITY
Lawyers as Officers of the Court 39*

RETIREMENT SECURITY
Defining the Contours of ERISA Preemption of State Insurance Regulation: Making Employee Benefit Plan Regulation an Exclusively Federal Concern ..... 607†

TAXATION
The 1988 Amendment to 26 U.S.C. Section 7430: Expanding Taxpayers' Rights to Recover Costs in Tax Controversies ..... 1711††

TORTS
Damages for Emotional Distress in Fraud Litigation: Dignitary Torts in a Commercial Society 1*
A Fault-Based Administrative Alternative for Resolving Medical Malpractice Claims . 1365*
Strict Liability for Defective Ideas in Publications ..... 557†
United States v. Johnson: Expansion of the *Feres* Doctrine to Include Servicemembers' FTCA Suits Against Civilian Government Employees ..... 233†

ERRATA

Omitted from Volume 41 Index:

Levinson, L. Harold, *Making Society's Legal System Accessible to Society*, 41 VAND. L. REV. 789 (1988).